

Young Adult Offenders

The Need for More Effective Legislative Options and Justice Processing

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In most states, the legal treatment of offenders changes dramatically when they reach their 18th birthday. (In some states, this transition occurs at ages 16, 17, or even 19; see Griffin, 2012.) Instead of being dealt with in the juvenile justice system, which focuses mainly on the best interests of the child, rehabilitation, and programming, offenders start being dealt with in the adult criminal justice system, which focuses on just deserts, retribution, and deterrence, with few attempts at offender programming. What is the justification for the dramatic change in legal treatment at age 18? Is there a dramatic change in criminal propensity or criminal careers, for example?

Many justifications have been put forward for treating juveniles differently from adults. It has been argued that juveniles have less mature judgment; poorer emotion regulation; and self-regulation; poorer decision making in offending opportunities; and poorer executive functioning, reasoning, abstract thinking, and planning (Scott and Steinberg, 2008). Arguably, juveniles have poorer impulse control and are more likely to take risks and commit crimes for excitement rather than according to a rational cost–benefit assessment. In their decision making, juveniles are thought to be influenced more by immediate desirable

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consequences than by delayed possible undesirable consequences. Allegedly, they are thought to be more susceptible to peer influences, more changeable, more redeemable, and less set in their offending habits. Consequently, they are less culpable or blameworthy, have diminished responsibility, and are less deserving of punishment. Also, they have lower adjudicative competence to communicate with lawyers, make legal decisions, understand and participate in legal procedures, or stand trial (Howell, Feld, and Mears, 2012).

Do all these abilities change dramatically at age 18? This seems unlikely. Although we accept that there are great variations in the methods of processing used by juvenile and adult criminal courts, we argue in this article that the usual change from rehabilitation to punishment on the 18th birthday is too abrupt. The cognitive functioning of offenders changes gradually, and young adults aged 18–24 are similar in many respects to juveniles aged 15–17. In many ways, young people continue to mature up to the mid-20s. Many justifications for the special treatment of juveniles also apply (to a greater or lesser degree) to young adult offenders. Therefore, we argue that there should be special legal provisions for young adult offenders aged 18–24, who in many respects are midway between juveniles and adults.

Legal age boundaries in many areas, including juvenile and criminal justice, seem arbitrary. For example, the minimum legal ages for driving a car, drinking alcohol, owning a gun, having sexual intercourse, and getting married often are different from the minimum legal age for adult court. There are great variations in legal age boundaries between countries and between U.S. states, and great changes over time. For example, most young adults aged 18–24 may have been living independently in the 1950s, but they were not in the 2000s.

Arnett (2000) coined the term “emerging adulthood” for the age period from the late teens to the mid-20s (roughly ages 18–25). He explained:

The dominant theory of the life course in developmental psychology, first proposed by Erikson (1950), postulated that adolescence, lasting from the beginning of puberty until the late teens, was followed by young adulthood, lasting from the late teens to about age 40 when middle adulthood began. This paradigm may have made sense in the middle of the 20th century when most people in industrialized societies married and entered stable full-time work by around age 20 or shortly after. However, by the end of the century, this paradigm no longer fit the normative pattern in industrialized societies. Median ages of marriage had risen into the late 20s, and the early to mid-20s became a time of frequent job changes and, for many people, pursuit of post-secondary education or training. Furthermore, sexual mores had changed dramatically, and premarital sex and cohabitation in the 20s had become widely accepted. Most young people now spent the period from their late teens to their mid-20s not settling into long-term adult roles but trying out different experiences and gradually making their way toward enduring choices in love and work. The

theory of emerging adulthood was proposed as a framework for recognizing that the transition to adulthood was now long enough that it constituted not merely a transition but a separate period of the life course. (Arnett, 2007: 68–69)

In this article, we first discuss some aspects of the special legal treatment of juvenile offenders, and then we present knowledge about human development and offending careers from the teenage years to the 20s. We then review reentry problems of young adult offenders and the legal treatment of young adult offenders in some other countries. Finally, we suggest methods of improving the legal treatment of young adult offenders in the United States. (For more details about all of these issues, see Loeber and Farrington, 2012.)

Justifications for the Special Legal Treatment of Juvenile Offenders

Culpability

Culpability focuses on a person's blameworthiness and the degree of deserved punishment. The diminished responsibility of young people for offending is thought to require mitigated sanctions to avoid permanently life-changing penalties and provide room for reform. Compared with adults, youths' immature judgment reflects differences in appreciation of risk, appraisal of short- and long-term consequences, self-control, and susceptibility to negative peer influences (Scott and Steinberg, 2008). The U.S. Supreme Court's decision in *Roper v. Simmons* (2005) to abolish executions of juvenile offenders in the United States provides the backdrop for our discussion of the reduced criminal responsibility of young people.

In *Roper v. Simmons*, the Supreme Court conducted a proportionality analysis of adolescents' culpability to determine whether the death penalty ever could be an appropriate punishment for juveniles. A majority of the Court offered three reasons why states could not punish youths found to be criminally responsible as severely as adults. First, juveniles' immature judgment and lesser self-control caused them to act impulsively and without full appreciation of the consequences of their actions and, thus, reduced their culpability. Second, juveniles are more susceptible to negative peer influences than are adults. In addition, juveniles' greater dependence on parents and community extends some responsibility for their crimes to others, which diminishes their criminal responsibility. Third, juveniles' personalities are more in flux and less fully formed than those of adults, and their crimes provide less reliable evidence of "depraved character." Although the differences between adolescents and adults seem intuitively obvious, *Roper v. Simmons* provided minimal scientific evidence to support its conclusions (Denno, 2006).

The Court's *Roper v. Simmons* decision (2005: 569) also attributed youths' diminished culpability to a "lack of maturity and . . . underdeveloped sense of responsibility . . . [that] often result in impetuous and ill considered actions and decisions." *Roper v. Simmons* focused on adolescents' immature judgment rather than on the narrower criminal law inquiry into the ability to distinguish right from wrong, and it was concluded that their immaturity

reduced their culpability. The Court's rationale recognized both adolescents' reduced moral culpability and their greater capacity for growth and change—that is, their diminished responsibility for past offenses and their unformed and perhaps redeemable character. In sum, the Supreme Court concluded that juveniles' reduced culpability warranted a categorical prohibition of execution (Feld, 2008).

Adjudicative Competence

The same developmental characteristics that diminish youths' criminal responsibility also affect their adjudicative competence adversely. Competence is the constitutional prerequisite to the exercise of other procedural rights. Due process requires a defendant to be competent to assure a fair trial. To be competent to stand trial, a criminal defendant must have "sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding [and have a] rational as well as factual understanding of the proceedings against him," as well as the capacity "to assist in preparing his defense" (*Drope v. Missouri*, 1975: 171). Adjudicative competence involves a defendant's ability to communicate with lawyers or aid in his or her defense, to make legal decisions as well as understand and participate in such legal procedures, to waive *Miranda* rights, to waive or assist counsel, to stand trial, and to exercise other constitutional protections. Judges evaluate a youth's competence by assessing his or her ability to (a) understand the charges and the basic elements of the adversary system (understanding), (b) appreciate one's situation as a defendant in a criminal prosecution (appreciation), and (c) relate pertinent information to counsel concerning the facts of the case (reasoning) (Bonnie and Grisso, 2000: 76).

Developmental psychologists have examined adolescents' adjudicative competence, their capacity to exercise or waive *Miranda* rights or the right to counsel, and their ability to participate in legal proceedings. This research questions strongly whether juveniles possess the cognitive ability, psychosocial maturity, and judgment necessary to exercise legal rights. Many young offenders, especially those younger than age 16 and those confronted with the complexities of criminal courts, cannot meet the legal standards for competence (Grisso et al., 2003; Scott and Grisso, 2005; Scott and Steinberg, 2008). Developmental psychologists argue that immaturity *per se* produces the same deficits of understanding, impairment of judgment, and inability to assist counsel as does severe mental illness, and it renders many juveniles legally incompetent (Grisso, 1997, 2000; Scott and Grisso, 2005). This vulnerability is enhanced for certain categories of juveniles: (a) those who are marginal or weak in intelligence, (b) those who are mentally ill, and (c) those who are otherwise mentally impaired as a result of injury or child abuse. For adolescents, generic developmental limitations, rather than mental illness or mental retardation, adversely affect their ability to understand legal proceedings, receive information, communicate with and assist counsel, and make rational decisions (Grisso, 1997; Redding and Fuller, 2004; Scott and Grisso, 2005).

Knowledge about Development of Psychosocial Maturity

To what extent do the Supreme Court's views conform to scientific knowledge about human development in adolescence and young adulthood? For many years, developmental psychologists focused on logical reasoning capacity as the linchpin of maturity. A new perspective on adolescent risk taking has emerged that begins with "the premise that risk taking in the real world is the product of both logical-reasoning and psychosocial factors" (Steinberg, 2007: 56; see also Steinberg, 2004). "However, unlike logical-reasoning abilities, which appear to be more or less fully developed by age 15, psychosocial capacities that improve decision making and reduce risk taking—such as impulse control, emotion regulation, delay of gratification, and resistance to peer influence—continue to mature well into young adulthood" (Steinberg, 2007: 56; see also Steinberg and Monaghan, 2007).

Increasing evidence shows that the brain continues to develop during childhood into early adolescence, including ongoing myelination, and into adulthood, when white matter increases and synapses are pruned. Research also shows that "the dorsal lateral prefrontal cortex, important for controlling impulses, is among the latest brain regions to mature without reaching adult dimensions until the early twenties" (Giedd, 2004: 77). The importance of white matter is underscored by the finding that decreased white matter is significantly more common among boys with psychopathic tendencies compared with controls (De Brito et al., 2009). Much is known about structural brain deficits of offenders (see, e.g., Raine, Lencz, Bihrlé, LaCasse, and Colletti, 2000), but we focus narrowly on changes in brain functioning with age. Biological changes in the prefrontal cortex during adolescence and the early 20s lead to improvements in executive functioning, including reasoning, abstract thinking, planning, anticipating consequences, and impulse control (Sowell, Delis, Stiles, and Jernigan, 2001).

The data on brain development, although mostly cross-sectional, are much in line with evidence that reckless acts are still common until early adulthood, as is evident from data on the incidence of car accidents, even when controlling for the number of miles traveled (Foss, 2002). This fact is recognized widely by insurance companies, whose premiums for car insurance for young drivers (especially males) up to approximately age 25 are dramatically higher than for older drivers. It also is recognized by car rental companies that either do not rent cars to people younger than age 25 or levy a surcharge for drivers younger than that age.

The idea of improved behavioral controls that emerge between late adolescence and early adulthood also is evident from psychological research. For example, Steinberg, Cauffman, Woolard, Graham, and Banich (2009) investigated time perspective, planning ahead, and anticipation of consequences among individuals between ages 10 and 30. Although this study employed a cross-sectional design, the results suggest that the ability to plan ahead improves dramatically between early adolescence and the early 20s, along with

the anticipation of consequences, whereas time perspective improves slightly less in that same period.

Prior et al. (2011) completed a useful literature review titled *Maturity, Young Adults and Criminal Justice*. They found that physical maturity (the completion of puberty) usually occurred by age 12 or 13, whereas intellectual maturity was usually complete by age 18. However, the higher executive functions of the brain, such as planning, verbal memory, and impulse control, were not usually developed fully until age 25. They concluded (p. 8) that “the human brain is not mature until the early to mid-twenties.” However, it is difficult to specify how much maturation occurs between ages 18 and 25.

Based on the work of Steinberg and Cauffman (1996), Prior et al. (2011) divided psychosocial maturity into three categories: responsibility (the ability to act independently, to be self-reliant, and to have a clear sense of personal identity), temperance (the ability to limit impulsiveness, to control aggressive responses and risk taking, and to think before acting), and perspective (the ability to understand and consider the views of others before taking a decision to act). Prior et al. (2011) concluded that temperance was especially related to offending. Although responsibility and perspective became relatively settled at approximately age 18, temperance continued to develop up to the mid-to-late 20s (Modecki, 2008). Prior et al. (2011) also discussed the fact that females usually mature earlier than males and discussed the need to distinguish between adolescence-limited and life-course-persistent offenders (Moffitt, 1993). They also advocated the use of instruments to assess maturity in the criminal justice system, highlighting the work of Soderstrom, Castellano, and Figaro (2001). In conclusion, the review of Prior et al. (2011) suggested that extending the minimum age for adult court offending up to the mid-20s might be justifiable based on knowledge about the development of cognitive functioning and maturity. Young adults, like juveniles, could be considered less culpable than older adults because of their psychosocial immaturity.

Offending Careers

Research findings agree that the prevalence of offending increases from late childhood into adolescence, peaks in late adolescence, and decreases subsequently into adulthood. This process is generally known as the *age-crime curve* (Farrington, 1986; Tremblay and Nagin, 2005). The curve can be observed in all populations of youth. Less well known is the fact that, although an early age of onset, compared with a later age of onset, is associated with a longer offending career, the highest concentration of desistance takes place during early adulthood *irrespective* of age of onset. This finding corresponds with the downslope of the age-crime curve. In fact, the decrease in prevalence in the downslope of the age-crime curve is very substantial. In some cases, it goes down from approximately 50% to approximately 10% of all persons (e.g., Loeber, Farrington, Stouthamer-Loeber, White, and Wie, 2008).

All available age–crime curves show that the legal age of adulthood at 18 (or for that matter ages 16 or 17 in some states) is not characterized by a sharp change in offending at exactly that age, and it has no specific relevance to the downslope of the age–crime curve. Serious offenses (such as rape, robbery, homicide, and fraud) tend to emerge after the less serious offenses of late adolescence and early adulthood. Even for serious offenses, however, no clear dividing line occurs at age 18. Steinberg et al. (2009: 583) concluded that “[t]he notion that a single line can be drawn between adolescence and adulthood for different purposes under the law is at odds with developmental science.”

Most studies show that approximately half of juvenile offenders recidivate beyond age 18 into adulthood (see Piquero, Hawkins, and Kazemian, 2012). Piquero and colleagues addressed the following key questions about delinquency careers: *How common is persistence in and desistance from offending between adolescence and early adulthood?* And *how common is the onset of offending during early adulthood?* The criminal career parameters include prevalence and frequency, continuity, escalation and specialization, types of crimes and criminal careers, co-offending, prediction of offending into adulthood, and prediction of the onset of offending in the young adult years.

Most young adult offenders have previous juvenile records. For example, in the Cambridge Study in Delinquent Development, which is a prospective longitudinal survey of more than 400 males, two thirds of those who were convicted between ages 18 and 25 had been convicted previously as juveniles (Farrington, 2012). Only one quarter of all convicted offenders were first convicted at age 21 or older (McGee and Farrington, 2010). In this sample, the median age of the first conviction was 17, whereas the median age of the last conviction was 25. Taking account also of decreases in self-reported offending (Farrington et al., 2006), it can be concluded that most offenders desisted naturally in their early 20s. It seems unlikely that desistance is caused by justice processing because convictions were followed by an increase in self-reported offending in this sample (Farrington, 1977; Farrington, Osborn, and West, 1978).

There is no doubt that (according to official records) the probability of recidivism decreases from the teenage years to the 20s. To assess continuity in offending, Piquero, Farrington, and Blumstein (2007) examined convictions between different age periods, from 10–15 through 36–40 in the Cambridge Study. They found that 67% of recorded offenders at 10–15 also were recorded offenders at 16–20, whereas only 17% of those who were not convicted at 10–15 were recorded offenders at 16–20. The 67% of London males who were convicted between ages 10 and 15 and reconvicted between ages 16 and 20 could be compared with only 40% of males convicted at 16–20 who were reconvicted at 21–25 and only 33% of males convicted at 21–25 who were reconvicted at 26–30 (Farrington et al., 2006).

For a national sample of English males born in 1953, Prime, White, Liriano, and Patel (2001) found that the fraction of male offenders who were reconvicted within 5 years decreased from 42% at age 17 to 16% at age 25. For female offenders, however, the fraction

reconvicted decreased only from 23% at age 17 to 19% at age 25. It is known that the decrease in the age–crime curve after the peak is much steeper for males than for females.

Although the prevalence of offending and the probability of recidivism decrease from the teenage years to the 20s, it does not necessarily follow that the average residual length (in years) of a criminal career (up to the age of desistance) or the average residual number of offenses in a criminal career would decline similarly. However, Kazemian and Farrington (2006) investigated these quantities in the Cambridge Study, based on official records of convictions, and they found that these quantities decreased steadily with age. The average residual career length decreased from 8.8 years for offenders at age 18 to 6.1 years for offenders at age 25, and the average residual number of offenses decreased from 5.4 at age 18 to 3.8 at age 25. These quantities should be taken into account by sentencers, and they could be predicted by the age of the offender, the serial number of the conviction, the time since the last conviction, and the age of onset of offending.

Reentry Problems

The reentry problems faced by young adult offenders often are neglected. An estimated 200,000 juveniles and young adults ages 24 and younger leave secure juvenile correctional facilities or state and federal prisons and return home each year (Mears and Travis, 2004). Most reentry research has focused on older adults, and we know little about the reentry problems of young adults. This deficiency is critical because it would be risky to assume that the challenges faced by young adult offenders when returning to society are the same as those of older adults. Despite some overlap, substantial differences exist. For example, young people who are released from secure confinement confront several barriers:

- Developmental disabilities may have gone undiagnosed or untreated or mistreated.
- Family settings may include violence and drug dealing.
- Peer networks may foster criminality, which is a particular concern because of the importance of peer influence and association among young adults.
- They are likely to be unemployed because typically they will not have graduated from high school (Harlow, 2003) and will have a limited, if any, employment history.
- They have little experience of what it means to have positive, prosocial experiences with (a) friends, (b) recreation, (c) intimate emotional relationships, or (d) the self-discipline needed for employment.

These examples constitute some of the broad array of challenges that young adults face after reentry into society, and if unaddressed, these issues are likely to contribute to a trajectory of criminal involvement (see also Steinberg, Chung, and Little, 2004). Because parole/probation violations account for a large proportion of all incarcerations, states need to use proven techniques more widely to reduce violations or keep parole/probation violators out of prison. Nationwide, most (approximately 80%) of released prisoners are subject to a period of supervision in the community. Large numbers of parolees return to prison for

new crimes or technical violations of their parole and account for one third of new prison admissions nationally (Baer et al., 2006: 18).

Civil disqualifications are major obstacles to successful offender reentry. The Urban Institute's *Returning Home* study documented the prerelease needs and postrelease experiences of prisoners in Illinois, Maryland, Texas, and Ohio (Baer et al., 2006; see also Annie E. Casey Foundation, 2005). Whereas few studies have compared these needs and experiences systematically among young adult populations, a few effective postrelease programs are available for young adult offenders. A systematic review of prisoner reentry programs (Seiter and Kadela, 2003) suggested that several of them were effective, including vocational training and/or work release, drug rehabilitation, education programs (to some extent), halfway house programs, and prerelease programs, whereas promising results were obtained for sex and violent offender programs. Another review of adult inmate programs found small but positive benefits for work release programs (vs. in-prison incarceration) and job counseling/search for inmates leaving prison (Aos, Phipps, Barnoski, and Lieb, 2001). Once again, however, few studies exist that have systematically compared the effectiveness of reentry programs among younger versus older adult offender populations. More research on the reentry problems of young adult offenders is needed.

Special Legal Procedures for Young Adult Offenders

One peculiarity of the American juvenile justice system is the extent to which it allows the transfer of juveniles to the adult criminal court (see Griffin, 2012). In Europe, systems vary widely, and some countries (such as the Netherlands, Belgium, Portugal, and Poland) also allow juvenile defendants (older than ages 15 or 16) to be treated as adults. Other countries, such as Germany and Austria, do not allow juveniles younger than age 18 to be brought before an adult court to be sentenced under adult law. On the contrary, they allow young adults (between ages 18 and 20) to be treated under juvenile law and to be tried in the juvenile criminal justice system, although authorities have some discretion in this regard. These countries, however, have very long maximum custodial sentences for juveniles less than age 18: 10 years in Germany and 15 years in Austria (see Killias, Redondo, and Sarnecki, 2012).

As Dunkel and Pruin (2012) pointed out, the International Association of Penal Law in 2004 passed a final resolution stating that the applicability of the special provisions for offending by juveniles could be extended up to the age of 25. In Germany since 1953, all young adults aged 18–20 have been transferred to the jurisdiction of the juvenile courts, which allows the needs of the young adult to be taken into account and allows rehabilitative measures to be used. Whether the young adult receives a juvenile or adult sanction depends on such factors as whether the moral and psychological development of a young adult is like a juvenile and whether the offense is like a juvenile crime (e.g., spontaneous, unplanned, or motivated by anger). Thus, practice in Germany conforms to the 2003 Council of Europe

recommendation that young adult offenders younger than age 21 should be treated in a way comparable with juveniles when the judge is of the opinion that they are not as mature and responsible for their actions as full adults (Dunkel and Pruin, 2012).

Young adult defendants in Germany, Switzerland, and Sweden can be sent to special institutions for the treatment of young offenders, but that also would be possible under the adult system in many other countries. An extreme case is Switzerland, where the adult age limit is strictly 18, but the maximum sentence for juveniles is usually 1 year (and only in exceptional cases 4 years). Thus, countries either have low maximum penalties for juveniles (younger than 18) and apply, in certain circumstances, adult criminal sanctions to juvenile defendants, or they have sanctions for juveniles that are not too different from what the law provides for adults (Stump, 2003). These policies make it easier to keep the adult age limit at 18 and to apply juvenile law to young adults (aged 18–20).

Some other European countries, including Sweden and Austria, have separate young adult sentencing provisions and separate institutions for 18–20-year-olds (see Transition to Adulthood Alliance, 2010). The Netherlands, the Scandinavian countries, and the countries of the former Yugoslavia have special provisions for young adults within the general criminal law or provide for the possibility of avoiding the requirements of the adult law or reducing adult sentences. In Switzerland, young adults can be treated as juveniles until they are 25. In Sweden, there is “youth mitigation” up to age 21. In Finland, all those who committed their crime younger than age 21 are regarded by the prison service as juveniles.

Offenders ages 18 to 20 are dealt with more leniently than older adults not only in Scandinavia but also in 18 other European countries (including Austria, Germany, and the Netherlands). A practically important consequence of having young adults dealt with under juvenile law is that they may benefit from more lenient procedural rules, such as the wide use of diversion (e.g., in Germany). On the effects of such interventions, either no systematic research exists or the results are conflicting.

In England and Wales, as in the United States, the legal treatment of offenders changes dramatically when they reach their 18th birthday. Instead of being dealt with in the youth justice system, which focuses more on rehabilitation, they start being dealt with in the adult criminal justice system, which focuses more on punishment. However, there are some special provisions for young adult offenders, who are defined as those between ages 18 and 20 inclusive. In particular, these offenders are not sent to a prison but to a young offender institution, and their incarceration sentences must be followed by statutory supervision. At age 21, offenders are considered to be fully adult and fully responsible for their actions.

Because of concern about the legal treatment of young adult offenders in England and Wales, the Barrow Cadbury Trust established an independent Commission on Young Adults and the Criminal Justice System in 2004, which produced the report *Lost in Transition* (Barrow Cadbury Trust, 2005). The Commission highlighted the problems that every offender aged 18 or older was regarded as an adult and that sentencers were under no obligation to take account of the immaturity of offenders aged 21 or older. The Commission

argued against using birthdays as an arbitrary indicator of adulthood and considered that, ideally, there should be only one English criminal justice system for offenders of all ages that took account of the needs and maturity of offenders of different ages.

More realistically, the Commission argued for special provisions for young adult offenders that took account of their immaturity and malleability. It recommended that Transition to Adulthood teams should be established in each local criminal justice area to oversee the treatment of young adult offenders and to ease their transition between the youth and adult justice systems. It argued that most young adult offenders would naturally desist from crime in their 20s as they matured. Because treatment by the criminal justice system allegedly made them more likely to offend, there should be presumptions in favor of diversion and against custody for young adult offenders. The Commission pointed out that nearly 70% of incarcerated 18–20-year-olds were reconvicted within 2 years of release, although (in the absence of some comparison condition) this statistic in itself does not necessarily prove that young offender institutions are ineffective or damaging. The Commission also recommended that sentencers should be required to take account of the emotional maturity of young adult offenders and that specialists in the National Offender Management Service should submit an assessment of an offender's maturity to the court.

In 2009, the Transition to Adulthood Alliance published *A New Start* (Helyar-Cardwell, 2009a) and the *Young Adult Manifesto* (Helyar-Cardwell, 2009b). *The Manifesto* recommended that young adult offenders aged 18–24 should be recognized as a distinct category. It advocated that the government should consider how maturity and developmental stage could be taken into consideration in the sentencing of young adults, and it should pilot a maturity assessment instrument for use by the criminal justice system. *The Manifesto* also recommended more diversion of young adults from the courts, increased use of restorative justice, the abolition of short sentences for nonviolent offenders, and more support in the community to deal with drug, alcohol, mental health, and employment problems of young adult offenders (see Allen, 2012).

Policy Options

Many uncertainties exist regarding the extent to which the juvenile and adult justice systems reduce the recidivism of juvenile and young adult offenders. Some key questions are addressed as follows.

What is known about the relative effectiveness of the juvenile and criminal justice systems in reducing recidivism? Howell et al. (2012) pointed out that arrests, convictions, and imprisonment of youth and adults often lead to an increase in offending (see, e.g., Huizinga and Henry, 2008), and that sending youth to adult prisons usually increases rather than decreases recidivism (see, e.g., Kupchik, 2006). Second, they concluded that juveniles transferred to the adult court were more likely to reoffend, reoffended more quickly and at higher rates, and committed more serious offenses than did juveniles retained in the

juvenile justice system (see, e.g., Bishop and Frazier, 2000). Third, they cited a finding by the Centers for Disease Control Task Force (McGowan et al., 2007) indicating that juveniles who experienced the adult justice system committed more violent crimes after release than juveniles retained in the juvenile justice system. Fourth, they concluded that changes in transfer laws and practices did not produce a specific or a general deterrent effect (see, e.g., Redding, 2008). In recent decades, sanctions imposed on serious juvenile offenders have tended to become more wide ranging, including blended sentencing in juvenile courts and often longer sentences for juveniles in adult criminal courts than for adults convicted of the same crimes (Howell, 2009).

It seems clear that the more rehabilitative approach of the juvenile justice system is more successful with youth than the more punitive approach of the adult criminal justice system (Lipsey, 2009; Lipsey and Cullen, 2007). Therefore, it seems likely that a more rehabilitative approach also might be more successful with young adult offenders, and high-quality evaluation research on this topic is needed.

In light of all the empirical evidence reviewed by Howell et al. (2012), we recommend that experiments be mounted to assess the likely effectiveness of special sentencing and treatment provisions for young adult offenders. Legislators who are worried about being recognized as “soft on crime” may resist this strategy. However, if a more juvenile-like rehabilitative approach proves to be more effective and cost effective than the adult punitive approach in reducing the reoffending of young offenders, then that would be in the interest of taxpayers, young persons, and society at large.

In any case, survey evidence shows that the public are not as punitive as politicians claim. Welsh and Farrington (2011) reviewed evidence that the public overwhelmingly preferred to spend tax dollars on youth prevention programs rather than on building more prisons, and Cullen (2007) also argued that the public supported rehabilitation. Applegate, Davis, and Cullen (2009) found that, whereas the public generally preferred rehabilitation to retribution, deterrence, or incapacitation, their support for the transfer of juveniles to the adult court depended very much on features of the offense (e.g., seriousness) and offender (e.g., previous record). We agree that the sentencing of young adult offenders should take account of criminal history and other valid predictors of recidivism (see Austin, 2006).

Conclusions and Policy Recommendations

We started out with Arnett’s (2000) thesis that a period called “emerging adulthood” exists between adolescence and adulthood. We do not think that such a term is useful for future legal purposes because it will be difficult if not impossible to create a new terminology in legal statutes. In contrast, the period between adolescence and early adulthood is unique for offending in two ways. First, the number of juvenile and young adult offenders decreases with age as is evident from the downslope of the age–crime curve, which usually does not flatten out until after age 25. Many offenders naturally desist in their early 20s, and punitive

treatment in the adult criminal justice system may make them worse. Second, the period between adolescence and early adulthood is unique in that, on average, juveniles' cognitive and behavioral maturation, as shown by their impulsivity and sensation seeking, is not complete at ages 16, 17, or 18, the ages at which most states stipulate the beginning of adulthood. Thus, two major indicators of adulthood, that is, lowered offending and lowered impulsivity, do not map at all on current definitions of the minimum age of adulthood.

We argue that there is nothing magical about a legal calendar age of adulthood and that it is based on assumptions rather than on evidence. That young people tend to be more impulsive and that the majority grow out of this during early adulthood is well recognized by many commercial organizations, including car insurance and rental companies. It is perplexing why many politicians seem to ignore the naturally declining propensity to commit crime and the naturally improving cognitive maturity in the 20s. It also is remarkable that, whereas many legislators promote changes in evidence-based and cost-effective policies in a multitude of areas of government, scientific findings about the intersection between the age-crime curve and the maturational development of young people often are ignored in legislation.

Legislators and policy makers can learn from research findings showing normative decreases in impulsivity and offending during adolescence and early adulthood, and these changes do not map well on current legal statutes governing the age when juvenile justice ends and adult criminal justice begins. This means that many young persons who engage in impulsive forms of offending are directed away from juvenile justice—with its emphasis on rehabilitation—to adult criminal justice—with its more punitive approach and longer sentences, resulting in longer periods of incarceration usually without rehabilitative programs. The situation is especially dire for vulnerable young men and women, such as those with low intelligence who, compared with youth with higher intelligence, often take longer to mature cognitively and behaviorally. Another vulnerable group is offenders with serious mental health disorders. Keeping vulnerable and less vulnerable young offenders in adult prisons beyond their propensity to offend is comparable with keeping patients with physical ailments in hospitals beyond their time of recovery. Both examples are economically wasteful and unjust.

Legislators and researchers should focus on young adulthood for two additional reasons. First, during this period, some juvenile offenders will persist in their delinquency and become adult offenders. Second, another group will show adult-onset offending. During this time, some individuals may become violent, whereas others start engaging in “new” forms of crime such as fraud, trafficking in humans, identity theft, cyber criminality, electronic forms of economic crimes, and prostitution.

We conclude that young adult offenders aged 18–24 are more similar to juveniles than to adults with respect to features such as their executive functioning, impulse control, malleability, responsibility, susceptibility to peer influence, and adjudicative competence. Therefore, we make the following policy recommendations (some of which are alternatives):

1. Changes in legislation are warranted to prevent large numbers of juvenile offenders from becoming adult criminals. We recommend increasing the minimum age for referral of young people to the adult court to age 21 or preferably 24 so that fewer young offenders are dealt with in the adult criminal justice system. The advantages to these changes are many: Fewer young offenders will be incarcerated, fewer will be exposed to the criminogenic influences of incarceration, and more of them can receive alternative, noncustodial, and rehabilitative sanctions. We expect that, consequently, the number of adult prisoners will decrease and considerable savings for taxpayers will accrue. To prompt legislative change, we recommend cost–benefit analyses to quantify the benefits of legally raising the minimum age of adult jurisdiction to 21 or 24. Such cost–benefit analyses have been executed abroad but not yet in the United States, although there have been cost–benefit analyses in the United States of the effects of increasing the minimum adult age from 16 to 18 (Henrichson and Levshin, 2011). An English report concluded that “diversion from trial under adult law to trial under juvenile law following maturity assessment is likely to produce cost saving to society. . .” of £420 per offender (Barrow Cadbury Trust, 2009: 3). More analyses are needed to quantify the monetary costs and benefits of legally raising the age of juvenile jurisdiction to age 21 or 24.
2. Alternatively, special courts for young adult offenders aged 18–24 could be established on an experimental basis in a small number of areas (building on the experience of the U.K. Transition to Adulthood Alliance: see www.t2a.org.uk). The reasons to support creating special courts for young adult offenders are as follows: (a) to prevent excessive punishment of young people who land in the adult justice system, (b) because youthfulness is a mitigating factor, and (c) to protect the developmental needs of young people. The focus should be on rehabilitation rather than on punishment, although this would depend on features of the offense and the offender. Because juveniles who are transferred to adult courts tend to receive more severe sentences and tend to have higher recidivism rates than those in juvenile courts, we expect that these special courts would decrease recidivism and decrease incarceration, and consequently, this strategy would save taxpayers money. In addition, they should be designed to have fewer ongoing stigmatizing effects than the adult criminal courts. Potentially, they could process a large number of cases because approximately one third of felony cases in urban courts involve persons younger than 25 (Cohen and Kyckelhahn, 2010).
3. A third option is to set up special correctional facilities for young adult offenders and include programs such as cognitive-behavioral therapy, drug treatment, restorative justice, mentoring, education and vocational training, and work release. In most states, a juvenile court may continue to exercise dispositional jurisdiction over an adjudicated youth until the youth reaches their 21st birthday, and some states (e.g., Pennsylvania) have separate correctional institutions for young adult offenders. The California Department of Juvenile Justice continues to have jurisdiction over juveniles until the 25th birthday (Transition to Adulthood Alliance, 2010). Most research shows

no evidence that either longer sentences or lengthening the period of incarceration provides benefits in terms of reducing the recidivism of serious offenders.

4. A “maturity discount” should be implemented for young adult offenders: a decrease in the severity of penalties that takes account of young persons’ lesser culpability and diminished responsibility. Along that line, death sentences and life without parole sentences should be abolished for young adult offenders.
5. There should be risk/needs assessments and screening of young adult offenders to guide the selection of appropriate dispositions and interventions. This screening should assess topics such as executive functioning and impulse control, in addition to risk factors such as low intelligence. A comprehensive forensic assessment tool could be used, such as the MacArthur instrument (Woolard and Harvell, 2005). Young adult offenders with substance use problems should be diverted to drug courts, and those with mental health problems should be dealt with by mental health professionals. All sentencing could be based on individualized assessments of offenders and offenses. However, we would not propose that all offenders should have their brains scanned, as we do not think that enough is currently known about the relationship between brain structure and brain functioning.

Morse (1999: 76–77) put forward compelling arguments in favor of individualized sentencing for adults:

[I]f most or all adolescents are only partially morally responsible, then similarly situated adults should be treated similarly. I recognize that the law may adopt a bright line based on age to avoid the expense of individualization. Thus, if subjection to peer pressure does somehow excuse and juveniles are more subject as a class, there might be reason not to try to identify the small group of juveniles that is not especially subject to peer pressure. The search for efficiency in adjudicating juveniles then errs on the side of leniency. But this argument need not be symmetrical. Should adult adjudication err on the side of severity and unfairness in the search for efficiency? We generally hold that it is better to acquit the guilty than to convict the innocent. Should not efficiency yield to the need to individualize for the small class of adults with the same characteristics as juveniles who therefore might not be fully responsible?

6. Evidence-based programs for young adult offenders should be implemented in the community and after release, including multisystemic therapy, cognitive-behavioral therapy, drug treatment, restorative justice, mentoring, educational and vocational training programs, and programs such as Communities That Care (see Farrington and Welsh, 2007). Many proven intervention programs outside the justice system can improve self-control (see Piquero, Jennings, and Farrington, 2010). Employment and relationship programs should be offered to encourage desistance, as well as other

programs aimed at reducing disorderly transitions such as not graduating from high school and single teenage parenthood. Other useful programs are those aiming to reduce opportunities for offending, such as “hot spots policing” and situational crime prevention, as well as reducing gang membership and drug dealing (especially targeted on high-crime neighborhoods). In addition, in light of the long-term desirable effects of early nurse home visiting, parent training, and family-based programs (Farrington and Welsh, in press), these also should be more widely implemented and followed up to assess their effects on young adult offending.

All of these initiatives should be rigorously evaluated, in randomized experiments or high-quality quasi-experimental studies, and cost–benefit analyses should be carried out. Age, gender, and racial/ethnic differences in the effectiveness of programs should be studied.

We urge the U.S. federal government to develop an action plan to implement our key recommendations to assist states in changing their statutes and practices so that justice is applied more fairly and with more knowledge of how youth develop into mature adults. We believe that improvements in the safety of citizens and communities are needed and that our approach offers more hope and more benefits than does the implementation of longer sentencing of young people in the adult justice system. The litmus test is whether concerted preventive and remedial interventions inside and outside the justice system can lower and shrink the age–crime curve for future generations of young people.

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